



To enhance mission performance, TSA is committed to promoting a culture founded on its values of Integrity, Innovation and Team Spirit.

REVISION: This revised directive supersedes TSA MD 1000.2, *Interagency Agreements*, dated June 14, 2004.

SUMMARY OF CHANGES: Functional area code realigned from 1000 series previously issued through the Office of Finance and Administration. Section 7, procedures, establishes new procedures and formatting required for interagency acquisitions involving assisted acquisition.

- 1. PURPOSE:** This directive provides TSA policy and procedure for establishing funded interagency agreements (IAs), as well as unfunded memoranda of agreement (MOAs) and memoranda of understanding (MOUs).
- 2. SCOPE:** This directive applies to all TSA organizational elements
- 3. AUTHORITIES:**
 - A. The Aviation and Transportation Security Act (ATSA), Public Law 107-71, especially 49 U.S.C. § 114(m), which provides the Administrator with the authority of 49 U.S.C. §106(l) and (m)
 - B. The Economy Act, 31 U.S.C. §§ 1535 & 1536
 - C. Office of Federal Procurement Policy, *Interagency Acquisitions*, June 2008
 - D. [DHS Directive 125-02, Interagency Agreements](#)
- 4. DEFINITIONS:**
 - A. Assisted Acquisition Interagency Agreements: An IA that employs the acquisition services of a Servicing Agency in the procurement of supplies or services from the private sector, and where the Servicing Agency awards a contract or order on behalf of the Requesting Agency.
 - B. Authorized Official: Official who has responsibility to sign and execute an IA. See Section 5 of this directive for the specific Authorized Officials.
 - C. Best Interest of the Government: A determination made by the Program Office that the use of resources, as compared to known program priorities and alternative methods for attaining them, represents the most promising method to achieve the objective, considering the cost to benefit relationship.
 - D. Contracting Officer's Technical Representative (COTR): An employee appointed in writing by a Contracting Officer to perform designated contract administration activities with regard to technical issues.
 - E. Competition Advocate: The TSA official responsible for promoting full and open competition in contracting and the use of commercial, performance-based product and service specifications and who

likewise challenges barriers to competition represented by unduly restrictive product specifications or procurement plans that do not provide for full and open competition.

- F. Full and Open Competition: When used with respect to contract actions, the result when all responsible sources are permitted to compete.
- G. Interagency Agreement (IA): A written agreement entered into by TSA and one or more non-DHS Federal agencies or non-federal agencies that specifies the supplies or services to be provided by the Servicing Agency in support of the Requesting Agency.

NOTE: The abbreviation “IA” is used interchangeably to cover both Interagency and Intraagency Agreements.
- H. Intraagency Agreement: An agreement between two DHS Components (e.g., TSA and the US Secret Service) or between two TSA Offices (e.g., TSA Federal Air Marshal Service and TSA Office of Security Operations).
- I. Memorandum of Agreement (MOA): A type of unfunded IA that describes in detail the specific responsibilities of, and actions to be taken by, each of the parties so that their goals may be accomplished. An MOA may also indicate the goals of the parties to help explain their actions and responsibilities. If an MOA is intended as the preliminary method for two agencies to define a relationship that will lead to the exchange of funding, that funding must be provided under a properly executed IA.
- J. Memorandum of Understanding (MOU): A type of unfunded IA that describes very broad concepts of mutual understanding, goals and plans shared by the parties.
- K. Non-assisted Acquisition-related Interagency Agreements: Funded IAs with a Servicing Agency that does not involve an assisted acquisition, wherein the agreements may include direct performance by the Servicing Agency.
- L. Program Office: The office that has specific delineated authority over a common, interrelated set of projects intended to meet specified objectives within a distinct functional area.
- M. Requesting Agency: The entity or one of its major organizational units that requests performance from a Servicing Agency under the terms and conditions of an IA.
- N. Requiring Activity: The entity that develops and maintains the technical requirement for a specified acquisition.
- O. Servicing Agency: The entity or one of its major organizational units that provides performance to a Requesting Agency under the terms and conditions of an IA.

5. RESPONSIBILITIES:

- A. Assistant Administrators, or equivalents, are responsible for executing MOAs or MOUs.
- B. Assistant Administrator for Acquisition/Chief Procurement Officer (CPO) is responsible for:

- (1) Monitoring TSA compliance within over-arching Federal government acquisition policy.
 - (2) Reviewing appeals of disapprovals of proposed Assisted Acquisitions IAs.
- C. Deputy Assistant Administrator for Acquisition is responsible for serving as the Approving Official for proposed IAs in excess of \$500,000, where TSA is the Requesting Agency and as the approving official for IAs for Assisted Acquisition IAs where TSA is the Servicing Agency.
- D. Assistant Administrator for Finance and Administration/Chief Financial Officer (CFO) is responsible for:
- (1) Ensuring TSA adherence to the requirements of the appropriate legal, budgetary and financial authorities for IAs.
 - (2) Serving as TSA's Authorized Official for all IAs that do not involve assisted acquisitions and when TSA is the Servicing Agency.
- E. Contracting Officers are responsible for:
- (1) Monitoring and ensuring TSA compliance with policy and procedures as outlined in DHS Directive 125-02 as it pertains to the issuance of IAs for Assisted Acquisitions.
 - (2) Conducting procurement planning conferences with assigned Program Offices to identify all planned interagency acquisitions involving Assisted Acquisitions.
 - (3) Serving as the authorized official and issuing IAs in accordance with, and containing, all provisions of the [*Model Interagency Agreement*](#).
 - (4) Preparing and executing written determinations and finding, in consultation with OCC, citing specific legal authority for entering into a particular IA.
 - (5) Obtaining OCC review prior to executing all IAs.
 - (6) Appointing a Contracting Officer's Technical Representative (COTR) for the IA following the guidance provided in [*TSA MD 300.9, Appointment and Training of Contracting Officer's Technical Representatives*](#).
- F. OCC is responsible for providing legal counsel and guidance on all IAs, including appropriate review and determinations of specific legal authority and is responsible for reviewing all Memoranda of Agreement and Memoranda of Understanding (unfunded IAs).
- G. Program Managers are responsible for:
- (1) Ensuring compliance with this directive.
 - (2) Conducting acquisition and/or task planning, and analyzing alternatives to ensure all acquisitions are in the best interests of the government.

- (3) Articulating requirements to be fulfilled in a proposed IA and preparing all required documentation to support the IA.
- (4) Engaging technical management of the IA in order to ensure the intended results are achieved.
- (5) Nominating, to the Contracting Officer, a subject matter expert to serve as COTR following the guidance provided in TSA MD 300.9.

H. Competition Advocate is responsible for:

- (1) Monitoring proposed uses of Assisted Acquisitions IAs greater than \$500,000 with respect to Federal Acquisition Regulation 6.502(b)(1)(iv) in terms of challenging actions that unnecessarily restrict the acquisition of commercial items or competition.
- (2) Issuing an annual report not later than November 15 for actions awarded in the preceding fiscal year.

6. POLICY:

- A. As the Requesting Agency, TSA shall seek the most efficient and effective use of resources when seeking supplies or services the agency cannot provide for itself. Contracting with private sector entities through full-and-open competition is the most likely way to achieve the efficient and effective use of resources.
- B. As either the Requesting or Servicing Agency, TSA shall require market research to ensure actions are taken in the best interests of the Government and to explore potential alternatives that are available to the agency.
- C. Pursuant to DHS Directive 125-02, an IA must cite a statute upon which the agreement is based, and each IA may rely upon only one statute. The Economy Act applies to interagency acquisitions when more specific statutory authority does not exist. Federal Acquisition Regulation Subpart 17.5, *Interagency Acquisitions under the Economy Act* should be consulted to determine if the Economy Act is the applicable authority. An IA should cite the Economy Act only when a more specific authority is not available, such as 49 U.S.C. § 114(m), which is generally applicable to TSA.
- D. Program Offices shall notify the CFO, through the Office of Budget and Performance, before entering into any reimbursable agreement where TSA is the Servicing Agency. The CFO shall ensure TSA has established sufficient reimbursable authority with the Office of Management and Budget.
- E. All IAs where TSA is the Servicing Agency shall be routed through the CFO for action to facilitate the establishment of reimbursable accounts in the financial system and the U.S. Coast Guard Finance Center.
- F. All IAs shall be consistent with the TSA mission and be authorized by Federal law or regulations.

7. PROCEDURES:

- A. Preparation and Submission.

- (1) The Program Office shall notify the Office of Budget and Performance and ACQ well in advance of proposed IAs, regardless of whether TSA is the Requesting Agency or the Servicing Agency. This notification shall be accomplished through explanation in the body of a Procurement Request. Agreements exceeding \$500,000 require written notification to the Deputy Assistant Administrator for Acquisition via formal memorandum through the Assistant Administrator of the concerned office.
- (2) The Program Office shall nominate and the Contracting Officer shall appoint subject matter experts to serve as COTRs.
- (3) The Program Office shall obtain OCC review and clearance to ensure legal authority and proper citations.
- (4) The Program Office shall provide ACQ with a complete analysis of alternatives, as required by DHS Management Directive 125-02, stating requirements in terms of objectives to be achieved, rather than specific methods of performance, and providing commercial specifications, practices, and standards where available, including:
 - (a) Selecting suppliers to promote full-and-open-competition.
 - (b) Providing transparency.
 - (c) Contributing to the Government's socio-economic contracting objectives.
 - (d) Providing results that are based on fair decisions consistent with stated source selection criteria.

B. Review and Approval.

- (1) OCC will review and clear all IAs for legal sufficiency prior to ACQ processing.
- (2) CFO's Office of Budget and Performance will coordinate where TSA is proposed as the servicing agency, and concurrence is required prior to ACQ approval.
- (3) ACQ will confirm legal clearance and determine whether timely execution and contract award is possible in deciding to approve or disapprove. Notifications will be provided to COTRs.
- (4) Disapproved IAs may be appealed to the Assistant Administrator for Acquisition, whose decisions are final.

Table 1: Coordination and Execution Chart

	Program Office	Office of Acquisition	Chief Financial Officer	Office of Chief Counsel
TSA is Requesting Agency for an IA	Coordination Required	Approves and executes all IAs in this category for TSA	Coordination required all IAs in this category for TSA	Reviews IA for legal sufficiency
TSA is Servicing Agency for an IA	Coordination Required	Approval of all IAs in this category for TSA	Approves and executes all IAs in this category for TSA	Reviews IA for legal sufficiency
Memorandum of Agreement or Memorandum of Understanding (unfunded IAs)	Executes all IAs in this category for TSA following coordination	Approves if future TSA contracts will be awarded.	Coordination required if funding is needed for new TSA contract work or agreement will lead to a funded IA	Reviews IA for legal sufficiency

8. EFFECTIVE DATE AND IMPLEMENTATION: This policy is effective immediately upon signature.

APPROVAL

Signed

9/2/2009

Domenico Cipicchio
Assistant Administrator for Acquisition

Date

Distribution: All TSA Offices
Point-of-Contact: Acquisition Policy Office, TSAProcurementPolicy@dhs.gov